

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

<i>KYLE HARVEY, Natural and Biological</i>	)	
<i>Father of A.H., a Minor, Deceased,</i>	)	
	)	EDMO Case No.
Plaintiff,	)	_____
	)	
v.	)	Removed from the Circuit Court of
	)	Jefferson County, Missouri,
<i>GREAT CIRCLE, et al.</i>	)	Cause No. 19JE-CC0148
	)	
Defendants.	)	<b>JURY TRIAL DEMANDED</b>
	)	
	)	

---

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§1331, 1441(a), 1441(c), and 1446, Defendant Great Circle (“Defendant” or “Great Circle”), by and through their undersigned counsel, hereby remove the instant action from the Circuit Court of Jefferson County, Missouri on the following grounds:

1. Plaintiff Kyle Harvey (“Plaintiff”) filed a petition for Wrongful Death against Defendants on February 25, 2019 in the Circuit Court of Jefferson County, Missouri. Defendant Great Circle was served with a Summons and copy of the Petition on March 11, 2019, a copy of which is attached hereto as **Exhibit A**. Also attached are the docket and case filings from the state court action showing no other process, pleading, or order has been entered or served on Defendants (see **Exhibit B**).

2. In Count I of his Petition, Plaintiff purports to allege a state law claim for wrongful death against Defendants, claiming they breached their duty to Decedent by failing to comply with policies and laws related to child abuse and neglect in recommending Decedent return to an unsafe home environment. Plaintiff claims Decedent’s death was a direct and proximate cause of this negligence.

3. In Count II of his Petition, Plaintiff purports to allege a state law claim for wrongful death by intentional tort, alleging Defendants knowingly violated policies of the Children's Division related to child abuse and neglect in returning Decedent to an unsafe environment.

4. In Count III of his Petition, Plaintiff purports to allege claims against Defendants under 42 U.S.C. § 1983 and 1985 as a result of a decision purportedly made by Defendants to return Decedent to an abusive situation. Plaintiff claims that this decision was made without due process of law and violated Decedent's right to equal protection guaranteed by the 14<sup>th</sup> Amendment of the United States Constitution. Accordingly, Plaintiff's Petition raises a federal question as described in 28 U.S.C. § 1331.

5. Removal is proper under 28 U.S.C. § 1441 as this Court has original jurisdiction over Count III of the Petition pursuant to 28 U.S.C. § 1331. Removal is also proper with respect to Plaintiff's state law claims in Counts I and II of the Petition, as this Court has supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1441(c).

6. This case is removed within thirty (30) days of when service of legal process was affected. This Notice is therefore timely filed under 28 U.S.C. § 1446(b).

7. The United States District Court for the Eastern District of Missouri, Eastern Division, is the federal district within which Plaintiff's Jefferson County Circuit Court action is pending.

8. Defendants submit this notice without waiving any defenses to the claims asserted by Plaintiff, or conceding that Plaintiff has pleaded claims upon which relief may be granted.

9. As required by 28 U.S.C. § 1446(d), Defendants are filing a Notice of Removal with the Clerk of the Circuit Court of Jefferson County, Missouri.

WHEREFORE, Defendant remove this action to the United States District Court for the Eastern District of Missouri, request that no further proceedings be had in the Circuit Court of Jefferson County, Missouri, and that this Court grant such other and further relief to Defendants as it deems just and proper.

**DEFENDANT DEMANDS A TRIAL BY JURY.**

Respectfully submitted,

SANDBERG PHOENIX & von GONTARD P.C.

By: /s/ Casey F. Wong

Casey F. Wong, #62258MO  
Stephen M. Strum, #37133MO  
Philip C. Graham, #40345MO  
600 Washington Avenue - 15th Floor  
St. Louis, MO 63101-1313  
314-231-3332  
314-241-7604 (Fax)  
[cwong@sandbergphoenix.com](mailto:cwong@sandbergphoenix.com)  
[sstrum@sandbergphoenix.com](mailto:sstrum@sandbergphoenix.com)  
[pgraham@sandbergphoenix.com](mailto:pgraham@sandbergphoenix.com)

*Attorneys for Defendant  
Great Circle*

**Certificate of Service**

I hereby certify that on the 9th day of April 2019 the foregoing was filed electronically with the Clerk of the Court and served via electronic mail upon the following:

E. Ryan Bradley  
Julia M. Kerr  
The Bradley Law Firm  
[ryan@thebradleylawfirm.com](mailto:ryan@thebradleylawfirm.com)  
[Julia@thebradleylawfirm.com](mailto:Julia@thebradleylawfirm.com)  
*Attorney for Plaintiff*

/s/ Casey F. Wong